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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/1983 253 061 317/00 WILHELM

R 2151

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TM5270618

EXAMINER

TORRES VELAZQUEZ, N

ART UNIT

PAPER NUMBER

1771

DATE MAILED:

06/18/01

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/495,257	WORRELL ET AL.
	Examiner Norca L. Torres-Velazquez	Art Unit 1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 06 February 2001.  
 2a) This action is **FINAL**.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-21 is/are pending in the application.  
 4a) Of the above claim(s) 1-6 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 7-21 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.  
 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.  
 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.  
 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

15) Notice of References Cited (PTO-892)      18) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.  
 16) Notice of Draftsperson's Patent Drawing Review (PTO-948)      19) Notice of Informal Patent Application (PTO-152)  
 17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.      20) Other: \_\_\_\_\_

Art Unit: 1771

### **DETAILED ACTION**

1. Applicant's election without traverse of claims 7-10 in Paper No. 9 is acknowledged.
2. Applicant's arguments filed on February 6, 2001 have been fully considered but they are not persuasive.

a. Applicants argue that conventional sanding methods on elastic fabric produce breakage causing the formation of high amount of fuzz and have high hairiness values. Further that the Nielsen reference cuts the yarns in the fabric.

Examiner's position is that regarding claim 1, there is no degree of abrasion set forth in the claim, and therefore the results are equivalent. There is no evidence of record to verify the hairiness of the Nielsen reference. Further there is nothing in the claims to preclude the cutting of fibers.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 8-10 rejected under 35 U.S.C. 102(b) as being anticipated by NIELSEN et al. (US Patent 5,205,140) as stated in the previous action.

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

Art Unit: 1771

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over MURAMOTO et al. (US 5352518).

MURAMOTO et al. discloses a composite elastic filament with a rough surface. The filament has excellent elastic properties, a small surface friction coefficient and a matting effect due to diffuse reflection of light caused by the rough surface, and is agreeable when worn in the form of a textile structure, particularly as lady's stockings. (Abstract). The composite elastic filament has a sheath portion covering the core portion and has numerous ridges rising along the circumference. These ridges have an axial pitch preferably within the range between about 0.1 and 100  $\mu\text{m}$ . (Refer to column 2, lines 6-20).

The reference teaches that textile structures composed of this filament, particularly clothing to contact directly with human skin, whereas they closely contact due to the elasticity thereof, are free from "greasy feeling" and give a comfortable feeling to wearers, such as cool and fresh feelings, slippery feeling or the like. (Column 8, line 66 to Column 9, lines 1-4).

The reference further teaches the use of polyester and nylon. (Refer to claims 5-6).

MURAMOTO et al. discloses the claimed invention; an elastic fabric with improved hand, except for the method of contacting a surface of an elastic fabric with a microfinishing film to abrade the fibers. It would have been obvious matter of design choice to make an elastic fabric with improved hand by using the composite elastic filament with a rough surface, since MURAMOTO et al. teaches that these filaments have ridges at micro ranges that will obviously provide a fabric with the hairiness values claimed in this invention. It appears that the invention would perform equally well with the use of these filaments.

Art Unit: 1771

Regarding the structure of the fabric, this is considered an obvious matter of design choice.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 703-306-5714. The examiner can normally be reached on Monday-Thursday 7:30-5:00 pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Art Unit: 1771

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

nlt *MK*

June 7, 2001

*Elizabeth M. Cole*  
ELIZABETH M. COLE  
PRIMARY EXAMINER